



**TOWN ATTORNEY/
POLICE DEPARTMENT**

To: Mayor and Town Council

**From: Terrence S. Welch, Town Attorney
Doug Kowalski, Chief of Police**

Through: Mario Canizares, Town Manager

Re: Ordinance Amending Current Firearms Provisions in the Code of Ordinances

Town Council Meeting – February 13, 2024

Strategic Visioning Priority: 4. Provide Excellent Municipal Services

Agenda Item:

Consider and act upon an ordinance amending Section 1.09.017 of the Code of Ordinances relative to the carrying of firearms in Town parks, and Sections 8.03.001 and 8.03.002 of the Code of Ordinances relative to the carrying and discharge of firearms in Town buildings or in the Town limits.

Description of Agenda Item:

The 87th Texas Legislature (Regular Session) adopted House Bill 1927, effective September 1, 2021, which prohibited or limited in major respects municipal regulation of the carrying of firearms. Several provisions in the Town’s Code of Ordinances, although not currently enforced, are outdated as a consequence of HB 1927.

Current Subsection (a) of Section 1.09.017 of the Code prohibits the carrying of firearms in Town parks. HB 1927 now generally allows the carrying of firearms in a public park (exceptions exist for various types of criminal offenders, family violence offenders, fugitives, etc.), so Subsection (a) of Section 1.09.017 has been repealed and existing Subsection (b) is now the only operative part of Section 1.09.017. That provision now prohibits the discharge of firearms in a park, and prohibits the carrying or discharge of fireworks, air guns, bows and arrows, slingshots or devices which project an object that would create a fire hazard or a danger to the public in a park.

Current Subsection (a) of Section 8.03.001 of the Code prohibits any person, other than a peace officer, to carry a firearm in any building where municipal court is held. Under HB 1927, the Town cannot prohibit the carrying of handguns in Town buildings except in limited situations: council meetings and the offices of the municipal court (as referenced in Section 46.03 of the Texas Penal Code). Consequently, this Ordinance brings Section 1.09.017 into compliance with HB 1927.

Current Section 8.03.002 has similar carrying provisions that are now restricted by HB 1927; however, the discharge of firearms as well as BB guns, pellet guns, air rifles, and paint guns remain illegal in the Town’s corporate limits. The revisions to Section 8.03.002 eliminated the “carrying” provisions and still address the illegality of the discharge of the weapons listed above.

At the January 9, 2024, Town Council meeting, it was requested that the proposed ordinance be amended to include and authorize hunting, consistent with state law. Consequently, new Subsections (d) and (e) were added to Section 8.03.002 to read as follows:

(d) The discharge of weapons and hunting, with any permit required by the State of Texas, shall be allowed on private property annexed into the Town after September 1, 1981, with a shotgun, air rifle or pistol, BB gun, or bow and arrow on a tract of land of ten (10) acres or more and:

(1) more than 1,000 feet from the property line of any public land, as said land is defined in Section 229.003 of the Texas Local Government Code, as amended, school, commercial day care facility or hospital;

(2) more than 600 feet from the property line of a residential subdivision or multifamily residential complex; and

(3) more than 150 feet from a residence or occupied building on another property.

(4) For purposes of this subsection, the person discharging a weapon described in this subsection and on property described in this subsection must have the express written permission from the owner on or over whose property any projectile would fall. In no event shall said weapon be used in a manner not reasonably expected to cause a projectile to cross the boundary of any tract.

(e) The discharge of weapons and hunting, with any permit required by the State of Texas, shall be allowed on private property annexed into the Town after September 1, 1981, with a center fire or rim fire rifle or pistol of any caliber on a tract of land of fifty (50) acres or more and:

(1) more than 1,000 feet from the property line of any public land, as said land is defined in Section 229.003 of the Texas Local Government Code, as amended, school, commercial day care facility or hospital;

(2) more than 600 feet from the property line of a residential subdivision or multifamily residential complex; and

(3) more than 300 feet from a residence or occupied building on another property.

(4) For purposes of this subsection, the person discharging a weapon described in this subsection and on property described in this subsection must have the express written permission from the owner on or over whose property any projectile would fall. In no event shall said weapon be used in a manner not reasonably expected to cause a projectile to cross the boundary of any tract.

Subsections (d) and (e) are contained in Section 229.003, "Regulation of Discharge of Weapon by Certain Municipalities," of the Texas Local Government Code and are contained virtually word-for-word in the proposed ordinance. Additionally, a provision has been added that permits a right to protect oneself or one's property from animal predators and wild or marauding animals.

Budget Impact:

There is no budgetary impact affiliated with this item.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached Ordinance as to form and legality.

Attached Documents:

1. Ordinance

Town Staff Recommendation:

The Town Attorney recommends that the Town Council approve an ordinance amending Section 1.09.017 of the Code of Ordinances relative to the carrying of firearms in Town parks, and Sections 8.03.001 and 8.03.002 of the Code of Ordinances relative to the carrying and discharge of firearms in Town buildings or in the Town limits.

Proposed Motion:

I move to approve an ordinance amending Section 1.09.017 of the Code of Ordinances relative to the carrying of firearms in Town parks, and Sections 8.03.001 and 8.03.002 of the Code of Ordinances relative to the carrying and discharge of firearms in Town buildings or in the Town limits.